



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0278; FRL-9996-91-Region 4]

#### Air Plan Approval; KY; Existing Indirect Heat Exchangers for Jefferson County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is proposing to approve revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet), through a letter dated March 15, 2018. The revisions were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District, also referred to herein as Jefferson County). The SIP revision includes changes to Jefferson County Regulations regarding existing indirect heat exchangers.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0278 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Akers can be reached via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov) or via telephone at (404) 562-9089.

## **SUPPLEMENTARY INFORMATION:**

### **I. What Action is EPA Proposing?**

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP that were provided to EPA through KDAQ via a letter dated March 15, 2018.<sup>1,2</sup> EPA is proposing to approve the portions of this SIP revision that make changes to the District's Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers*.<sup>3</sup> The March 15, 2018, SIP revision makes minor and ministerial changes to Regulation 6.07 that do not alter

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<sup>1</sup> EPA notes that the Agency received the SIP revision on March 23, 2018.

<sup>2</sup> In 2003, the City of Louisville and Jefferson County governments merged and the "Jefferson County Air Pollution Control District" was renamed the "Louisville Metro Air Pollution Control District." See The History of Air Pollution Control in Louisville, *available at* <https://louisvilleky.gov/government/air-pollution-control-district/history-air-pollution-control-louisville>. However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading "Air Pollution Control District of Jefferson County." Thus, to be consistent with the terminology used in the SIP, we refer throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the "Jefferson County" regulations.

<sup>3</sup> EPA notes that the Agency received several submittals revising the Jefferson County portion of the Kentucky SIP transmitted with the same March 15, 2018, cover letter. EPA will be considering action for these other SIP revisions in separate rulemakings.

the meaning of the regulation or the emissions levels for sources regulated under the Jefferson County Regulations, such as clarifying changes to its applicability. In addition, the changes strengthen the SIP by adding specific test methods and procedures applicable to existing indirect heat exchangers. The SIP revision updates the current SIP-approved version of Regulation 6.07 (version 3) to version 4. The changes to this rule and EPA's rationale for proposing approval are described in more detail in Section II.

## **II. EPA's Analysis of the State Submittal**

As mentioned in Section I of this proposed action, the portion of Jefferson County's March 15, 2018, SIP revision that EPA is proposing to approve makes changes to Jefferson County Air Quality Regulations at Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers*.

The changes to Section 1, *Applicability*, and Section 2, *Definitions*, are intended to provide consistency with other Jefferson County Air Quality Regulations by defining the affected facility within the *Definitions* section and relying on that definition in the *Applicability* section. Specifically, Section 1 of the current SIP-approved version of Regulation 6.07 (version 3) provides that this regulation apply to indirect heat exchangers at or above 1 million British thermal units per hour (MMBtu/hr) that "was in being or under construction before April 19, 1972." The amendments included in the March 15, 2018, SIP revision simplify Section 1, *Applicability*, to refer to affected facilities "in being or commenced construction, modification, or reconstruction on or before the applicable classification date defined [in Section 2]."

Section 2 then defines "Affected facility" as those indirect heat exchangers with a capacity of 1 MMBtu/hr heat input. Therefore, the size of such facilities subject to the Regulation is not changed. Next, the classification date is defined in Section 2 as August 17,

1971 for facilities with a capacity greater than 250 MMBtu/hr heat input, and April 9, 1972 for those with a capacity of 250 MMBtu/hr or less, which correspond to applicability dates for these sizes of sources in Regulation 7.06, *Standards of Performance for New Indirect Heat Exchangers*. EPA notes that the revised dates are earlier than the current-SIP approved date, however, as Regulation 6.07 regulates sources that would not otherwise be covered under regulations requiring greater emissions reductions (for example, Regulation 7.06 or a relevant NSPS), EPA expects no emissions increases associated with this revision. EPA has preliminarily concluded that the changes to Sections 1 and 2 serve to correct and clarify the existing SIP.

Section 3, *Standard for Particulate Matter*, specifies the applicable emissions standards for particulate matter and opacity, and Section 4, *Standard for Sulfur Dioxide*, specifies the applicable standards for sulfur dioxide. The changes made to both of these Sections in the March 15, 2018, SIP submittal are minor and ministerial (for example, moving the term particulate matter from subsections to the prefatory text of the corresponding section and moving the allowable sulfur dioxide emissions descriptor from before the equation and including it as a defined term in the equation), and no changes are made to the applicable emissions standards, nor the calculations for determining the standards. Minor and ministerial changes are also made to Table 1, *Allowable Particulate Matter Emission Rates*, and Table 2, *Allowable Sulfur Dioxide Emissions Based on Heat Input Capacity*, appended to Regulation 6.07 and corresponding to Sections 3 and 4, respectively. EPA has preliminarily concluded that these changes do not modify the scope or meaning of the provisions.

Finally, the March 15, 2018, SIP revision adds Section 5, *Test Methods and Procedures*, to provide specific instruction on how to determine compliance with the applicable emissions limits for the affected facilities. This section requires compliance with standards for particulate

matter and sulfur dioxide be demonstrated using EPA reference methods included in 40 CFR part 60, Appendix A, except as provided in Regulation 1.04, *Performance Tests*. Regulation 1.04 stipulates that if a facility is subject to 40 CFR parts 60, 61, or 63, then specified procedures for test requirements are to be used unless EPA and LMAPCD have agreed upon an alternative or have agreed to a waiver from the applicable test procedures. The addition of section 5 provides specificity in testing requirements for the set of affected facilities under Regulation 6.07 that would not otherwise be subject to 40 CFR part 60 or part 63 (for example, for a source that commenced construction or modification prior to the applicability date for 40 CFR part 60). EPA proposes that the use of federal reference methods is appropriate and sufficient to determine compliance with the applicable standards in Regulation 6.07, and that the inclusion of Section 5 in the SIP is clarifying and SIP-strengthening.

As noted above, these rule changes do not relax the emissions reductions to applicable sources, nor do they change any applicable emissions limitations. With respect to the changes related to test methods and procedures, EPA proposes that the changes serve to strengthen the SIP. Therefore, EPA has made the preliminary determination that the aforementioned changes will not have a negative impact on air quality in the area and is therefore proposing to approve version 4 of Regulation 6.07 into the Jefferson County portion of the Kentucky SIP.

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Jefferson County's Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers*, version 4, state effective January 17, 2018. EPA has made, and will continue to make, these materials generally available through

[www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

#### **IV. Proposed Action**

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP included in a March 15, 2018, submittal. Specifically, EPA is proposing to approve the District’s Regulation 6.07 version 4 into the SIP. The March 15, 2018, SIP revision makes minor and ministerial changes such as clarifying the applicability of the regulation, and includes more specific requirements for test methods and procedures for affected facilities. EPA believes these changes are consistent with the CAA and EPA policy, and these rule adoptions will not impact the NAAQS or interfere with any other applicable requirement of the Act.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175

(65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.



**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference,  
Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 11, 2019.

Mary S. Walker,  
Regional Administrator,  
Region 4.

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